such cases the injury must be attributed to the one that negligently exposed to danger the person who required assistance.

Carriers — Negligence — Act of God.— In *Gleeson* v. *Virginia Midland Ry. Co.*, 11 Sup. Ct. Rep. 859, the U. S. Supreme Court held that a land-slide in a railway cut, caused by a fall of rain not of unusual violence, is not an act of God so as to excuse the company from liability for an accident caused thereby. Lamar, J., who delivered the opinion, says in the course of it: "Against such an event it was the duty of the company to have guarded. Extraordinary floods, storms of unusual violence, sudden tempests, severe frosts, great droughts, lightnings, earthquakes, sudden deaths and illnesses have been held to be 'acts of God'; but we know of no instance in which a rain of not unusual violence, and the probable results thereof in softening the superficial earth, have been so considered. * * * If it be the duty of the company (as it unquestionably is) in the erection of the fills and the necessary bridges, to so construct them that they shall be reasonably safe, and to maintain them in a reasonably safe condition, no reason can be assigned why the same duty should not exist in regard to the cuts. Just as surely as the laws of gravitation will cause a heavy train to fall through a defective or rotten bridge, just so surely will those same laws cause land-slides and the consequent dangerous obstructions to the track itself from ill-constructed railway cuts. * * * Ordinary skill would enable the engineers to foresee the result, and ordinary prudence should lead the company to guard against it. To hold any other view would be to over-balance the priceless lives of the travelling public by a mere item of increased expense in the construction of railroads."

Negligence of Sub-contractor.—An interesting case has recently been decided in Massachusetts (*Bickford* v. *Richards et al.*, 27 N. E. Rep. 1014) in which the distinction between mere non-feasance and mis-feasance on the part of a sub-contractor is clearly shown. B. had made a contract for the removal of some buildings with C., who subsequently sub-let the contract to R. *et al.* The removal was done in such an unworkmanlike and negligent manner that the buildings were greatly injured, and this suit was entered against defendants by B. for the damages. The lower court ordered a verdict for R. there being no privity of contract between them and B., and this decision is now reversed by the Supreme Court. The court says, "The plaintiff's right of action does not depend on the existence of a contract between himself and the

defendants as would be the case were he suing for damages resulting from non-feasance on part of defendants, but on the fact that defendants have negligently and wrongfully done, or caused to be done, something to his property which has injured it. The gist of the action is the breach by defendants of the duty which they owed to the plaintiff not to injure his property by any wrongful or negligent acts of theirs. That duty did not depend on or grow out of contract. The fact that plaintiff may have an action on the contract against C., does not relieve the defendants from liability to the plaintiff for their negligent and wrongful acts."

Riparian Rights — Lands Bounded on Non-Navigable Lakes. — In *Hardin* v. *Jordan*, 140 U. S. 371, the Supreme Court of the United States has decided that by the common law, under a grant of lands bounded on a non-navigable lake, the grantee takes to the centre of the lake. Grants by the United States of its public lands, bounded on waters, are to be construed according to the law of the State where the lands lie; and the rule of the common law still prevails in Illinois, notwithstanding a mere opinion of the court, not necessary to the decision of the case, in *Trustees of Schools* v. *Schroll*, 120 Illinois, 509, that a grant of lands bounded by a lake does not extend to the centre thereof. Three justices dissented, being of the opinion that, even if the common law was as stated, which they doubted, yet the opinion in *Trustees of Schools* v. *Schroll*, *supra*, amounted to a decision of the case, and established the rule in Illinois that the title of the riparian owner stopped at the water line. As to the value of recent English decisions, which declare the common law, the court says, in speaking of *Bristow* v. *Cormican*, 3 App. Cas. 641: "Of course this decision has not the controlling authority which it would have had if it had been made before our revolution. But it is the judicial decision of the highest authority in the British empire, and is entitled to the greatest consideration on a question like this, of pure common law."

Liability of Employer—Proximate Cause—Contributory Negligence. — The plaintiff was fireman on the engine of the defendant company. The air-brake was unsafe. The plaintiff and engineer were aware of its condition and that directed repairs had been neglected. Application of the brake at a danger signal failed to control the speed, where a sound brake would have stopped the train and prevented the injury to the plaintiff. Upon verdict for the plaintiff, the defendant moved for a new trial because the speed and not the